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for taking an approved licensing or certification test, VA will make a charge against the veteran's or servicemember's entitlement by dividing the amount paid under paragraph (a) of this section by the monthly amount as calculated under § 21.5138(c). The calculation will assume that the veteran or servicemember is a full-time student.

(Authority: 38 U.S.C. 3232(c), 3452(b), 3689)

[72 FR 16978, Apr. 5, 2007]

§ 21.5138 Computation of benefit payments and monthly rates.

Except as provided in §§ 21.5136(b)(1) and 21.5137(a), for purposes of this subpart VA will compute benefit payments and monthly rates as provided in this section.

(Authority: 38 U.S.C. 3231, 3233, 3241, 3491, 3680, 3689)

(a) *Computation of entitlement factor.*

(1) For residence training, VA will compute an entitlement factor as follows:

- (i) Enter the number of full months in the applicable benefit period. (1) _____
- (ii) Enter the number of full days in excess of the number of full months. (a) _____
- (iii) Divide line a by 30. Enter the quotient. (2) _____
- (iv) Total (lines 1 and 2) (3) _____
- (v) Multiply line 3 by 1 for a full-time student; by .75 for a three-quarter time student; by .5 for a half-time student; or by .25 for a one-quarter time student. Enter the result. (4) _____

(This is the entitlement factor.)

(2) For correspondence training, VA will compute an entitlement factor as follows:

- (i) Enter the amount of the individual's contributions remaining in the fund. (b) _____
- (ii) Enter the individual's remaining months of entitlement. (c) _____
- (iii) Divide line b by line c. Enter the quotient. (5) _____
- (iv) Enter two times the amount in line 5 (6) _____
- (v) Enter the amount of the contributions, if any, remaining in the fund which the Secretary of Defense contributed for the individual. (d) _____
- (vi) Enter the individual's remaining months of entitlement. (e) _____

(vii) Divide line d by line e. Enter the quotient. (7) _____

(viii) Total (lines 5, 6 and 7) (8) _____

(ix) Enter the correspondence charges certified by the school. (9) _____

(x) Divide line 9 by line 8. Enter the quotient. (10) _____

(This is the entitlement factor.)

(3) For apprenticeship and other on-job training, VA will compute an entitlement factor as follows:

- (i) Enter the number of full days in the applicable benefit period. (Enter 30 if the benefit period is a full month.). (1) _____
- (ii) Divide line 1 by 30. Enter the quotient. (2) _____
- (iii) Multiply line 2 by .75 if the veteran is in the first six months of training; by .55 if the veteran is in the second six months of training; by .35 if the veteran is in a subsequent month of training; and by a pro-rated fraction if one of the veteran's first two six-month periods of training ends during the benefit period. Enter the result. (3) _____

(This is the entitlement factor.)

(Authority: 38 U.S.C. 3231, 3233; Pub. L. 96-466, Pub. L. 97-306, Pub. L. 99-576)

(4) For cooperative training, VA will compute an entitlement factor as follows:

- (i) Enter the number of full months in the applicable benefit period. (1) _____
- (ii) Enter the number of full days in excess of the number of full months. (a) _____
- (iii) Divide line a by 30. Enter the quotient. (2) _____
- (iv) Total lines 1 and 2 (3) _____
- (v) Multiply line 3 by .80. Enter the result. (4) _____

(This is the entitlement factor.)

(Authority: 38 U.S.C. 3231; Pub. L. 100-689)

(5) For flight training, VA will compute an entitlement factor as follows:

- (i) Enter the amount of the individual's contributions remaining in the fund. (a) _____
- (ii) Enter the individual's remaining months of entitlement. (b) _____
- (iii) Divide line a by line b. Enter the quotient. (1) _____
- (iv) Enter two times the amount in line 1 (2) _____
- (v) Enter the amount of the contributions, if any, remaining in the fund which the Secretary of Defense contributed for the individual. (c) _____
- (vi) Enter the individual's remaining months of entitlement. (d) _____
- (vii) Divide line c by line d. Enter the quotient. (3) _____
- (viii) Total (lines 1, 2 and 3) (4) _____

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(ix) Enter the charges for (e) _____
flight training certified by
the school.

(x) Multiply line e by .60 (5) _____
(xi) Divide line 5 by line 4. Enter the (6) _____
quotient. (This is the entitlement fac-
tor.)

(Authority: 38 U.S.C. 3231(f))

(b) *Computation of benefit payment.*
Under this section, VA will compute
benefit payments as follows:

- (1) Enter the entitlement fac- (f) _____
tor.
- (2) Enter the amount of the (g) _____
individual's contributions
remaining in the fund.
- (3) Multiply line f by line g. (h) _____
Enter the result.
- (4) Enter the remaining (i) _____
months of the individual's
entitlement.
- (5) Divide line h by line i. Enter the (11) _____
quotient.
- (This is the individual's portion.)
- (6) Enter two times the amount in line 11 (12) _____

(This is the Department of Veterans
Affairs's portion of benefit payments
for training completed before January
1, 1982. The Secretary of Defense will
contribute this portion of the benefit
payment for training that occurs after
December 31, 1981.)

- (7) Enter the amount of the (j) _____
additional contributions, if
any, remaining in the fund
which the Secretary of De-
fense contributed for the
individual.
- (8) Multiply line f by line j. (k) _____
Enter the result.
- (9) Enter the individual's re- (l) _____
maining months of entitle-
ment.
- (10) Divide line k by line l. Enter the (13) _____
quotient.
- (This is the Department of Defense's por-
tion for training completed before Jan-
uary 1, 1982. For training completed
after December 31, 1981, this is the sec-
ond part of the Department of De-
fense's portion.) (38 U.S.C. 3231)
- (11) Total (add lines 11, 12 and 13) (14) _____

(12) If the veteran is in an apprenticeship (15) _____
or other on-job training and fails to
complete 120 hours of training in a
month, reduce the amount on line 14
proportionately. In this computation
round the number of hours worked to
the nearest multiple of eight. Enter
the result.

(13) If the veteran is pursuing certain (16) _____
courses which do not lead to a stand-
ard college degree, has excessive ab-
sences, and incurred those absences be-
fore December 18, 1989, reduce the
amount on line 14 sufficiently to avoid
paying for any excessive absence.
Enter the result.

(Authority: 38 U.S.C. 3233 (1989), 38 U.S.C.
3680(a)(2) (1974); Pub. L. 101-237)

(14) The benefit payment is either—

(i) The amount shown on line 14 unless the veteran
is in apprenticeship or other on-job training and
has failed to complete 120 hours of training in a
month during the benefit period in which case
the benefit payment is the amount shown on line
15, or the veteran is pursuing certain courses
which do not lead to a standard college degree in
which case the benefit payment is the amount
shown on line 16, or

(Authority: 38 U.S.C. 3233; Pub. L. 99-576)

(ii) The total amount of the remaining contribu-
tions in the fund made by the individual and the
VA and the Secretary of Defense on behalf of the
individual, whichever is less.

(Authority: 38 U.S.C. 3231; Pub. L. 94-502)

(c) *Monthly rates.* Under this section,
VA will compute the monthly rates of
payment for individuals in residence
training by repeating the calculations
in paragraphs (b)(1) through (11) of this
section except that instead of entering
the entitlement factor on line f, para-
graph (b)(1), VA will enter 1 for a full-
time student, .75 for a three-quarter
time student, .5 for a half-time stu-
dent, or .25 for a one-quarter time stu-
dent.

(Authority: 38 U.S.C. 3231)

[45 FR 31, Jan. 2, 1980, as amended at 46 FR
32024, June 19, 1981; 47 FR 51747, Nov. 17, 1982;
48 FR 3369, Jan. 25, 1983; 48 FR 50530, Nov. 2,
1983; 52 FR 3429, Feb. 4, 1987; 53 FR 34498,
Sept. 7, 1988; 55 FR 31582, Aug. 3, 1990; 57 FR
38615, Aug. 26, 1992; 58 FR 31911, June 7, 1993;
72 FR 16978, Apr. 5, 2007]

§21.5139 Computation of benefit pay- ments for incarcerated individuals.

Notwithstanding the provisions of
§21.5138, some incarcerated individuals
may have their educational assistance
allowance terminated or reduced. The
provisions of this section shall not
apply in the case of any individual who
is pursuing a program of education
while residing in a halfway house or
participating in a work-release pro-
gram in connection with that individ-
ual's conviction of a felony.

(a) *No educational assistance allowance
payable to some incarcerated individuals.*
VA will pay no educational assistance
allowance to an individual who—

(1) Is incarcerated in a Federal, State
or local penal institution for convic-
tion of a felony, and